

AMENDMENTS TO THE DRAWINGS

The Examiner has alleged that the drawings, currently on file, are not of sufficient quality to permit examination and requires the submission of replacement drawings in accordance with 37 CFR §1.121(d).

Without conceding to the correctness of the Examiner's assertion, but solely in order to expedite prosecution of the instant application, Applicant submits herewith replacement drawing sheets 1/26 to 26/26, which collectively bear Figs. 1-27. Applicant respectfully submits that the replacement drawings, submitted herewith, are of sufficient quality to permit examination and respectfully requests this objection be withdrawn.

REMARKS

Claims 1-17 are currently pending in the application. The status of the claims based on this reply is as follows:

claims 1, 3-9, 13, and 17 have been amended;
no claims have been canceled;
claim 18 has been added; and
no claims have been withdrawn.

In an Examiner's Note, the Examiner asserts that the Applicant appears to be attempting to invoke 35 U.S.C. §112, paragraph 6 in claims 3-10, 14, 15, and 16. The Examiner further alleges that, if this is the case, there is no explicit recitation of any physical structures to perform the functions of the means-plus-function limitations in these claims.

Applicant respectfully points out that the specification explicitly recites physical structure for performing and/or supporting the various functions in the claims in several places. For example, page 12, lines 8 to 9, recites a "distributed network infrastructure, on which the system of the present invention is operating." Page 25, lines 11 to 12 refers to plural computers, each hosting parts of the distributed system. Host computers are further mentioned for example on page 20, lines 1 to 2, and page 23, lines 25 to 26. Servers and databases, which are also associated with computers, are also mentioned throughout the specification as originally filed, for example on page 13, lines 24 and 28, page 15, lines 14 and 24, page 16, line 27, page 19, lines 15 to 16, page 20, lines 3, and 13 to 14, page 22, lines 10 and 12, page 23, lines 15 to 27, and page 25, lines 18 to 20.

However, without conceding to the correctness of the Examiner's statements regarding means-plus-function language in the claims, Applicant has amended claims 3 to 9, submitted herewith. Support for these amendments to these claims can be found throughout the specification as originally filed. Further, these amendments are intended so as not to invoke 35 U.S.C. §112, paragraph 6.

Claims 1-12 and 17 have been rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter.

Without conceding to the correctness of the Examiner's objection, but solely in order to expedite prosecution of the instant application, Applicant has amended claims 1 and 17, submitted herewith.

Specifically, claim 1, submitted herewith, has been amended, replacing the phrase "a data storage system for organizing and storing" with the phrase "a data storage system configured to organize and store," replacing the phrase "a production system for the creation of the at least one electronic message" with the phrase "a production system configured to create the at least one electronic message," replacing the phrase "a messaging system performing functions including transmission" with the phrase "a messaging system configured to transmit," replacing the phrase "a tracking system for collecting and evaluating" with the phrase "a tracking system configured to collect and evaluate," and replacing the phrase "wherein the data storage system, production system, messaging system and tracking system are electronically interconnected" with the phrase "wherein the data storage system, production system, messaging system and tracking system comprise one or more electronically interconnected computers." Support for these amendments can be found throughout the specification as originally filed.

In addition, claim 17, submitted herewith, has been amended, replacing the phrase "A computer program product comprising a computer readable medium having a computer program recorded thereon for performing a method" with the phrase "A computer program product comprising a computer readable medium having a computer program recorded thereon for execution by one or more computers to carry out a method." Support for this amendment can be found throughout the specification as originally filed.

Based on the above, Applicant respectfully asserts that, under the broadest reasonable interpretation in view of the specification, claim 1, submitted herewith and upon which claims 2 to 12 directly or indirectly depend, relates to a distributed electronic marketing, sales and service management system comprising one or more electronically interconnected computers, each computer being particularly configured to support operation of the system. Additionally, based on the above, Applicant respectfully asserts that, under the broadest reasonable interpretation in view of the specification, claim 17, submitted herewith, relates to an article of manufacture which is related to a particular practical application. Applicant therefore respectfully asserts that claims 1-12 and 17 comply with 35 U.S.C. 101 and respectfully requests that this rejection be withdrawn.

Claims 13-16 have been rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter.

Without conceding to the correctness of the Examiner's objection, but solely in order to expedite prosecution of the instant application, Applicant has amended claim 13, submitted herewith. Specifically, claim 13 has been amended by inserting, in the preamble, the phrase "said method using a system of one or more electronically interconnected computers to implement steps thereof," replacing the phrase "organizing and storing a plurality of content" with the phrase "organizing and storing a plurality of content using one or more of said system of computers," replacing the phrase "creating the at least one electronic message" with the phrase "creating the at least one electronic message using one or more of said system of computers," replacing the phrase "transmitting the at least one electronic message to the at least one predetermined potential customer" with the phrase "transmitting the at least one electronic message to the at least one predetermined potential customer using one or more of said system of computers," and replacing the phrase "collecting and evaluating notifications" with the phrase "collecting and evaluating, using one or more of said system of computers, notifications." Support for these amendments can be found throughout the specification as originally filed.

Based on the above, Applicant respectfully asserts that, under the broadest reasonable interpretation in view of the specification, claim 13, submitted herewith and upon which claims 14 to 16 directly depend, relates to a method which is implemented by a particular machine, for example a system of one or more electronically interconnected and particularly configured computers. Applicant therefore respectfully asserts that claims 13 to 16 comply with 35 U.S.C. 101 and respectfully requests that this rejection be withdrawn.

Claims 1-17 have been rejected under 35 U.S.C. §102b as being anticipated by United States Patent Application Publication No. 2002/0032738 to Foulger *et al.*, hereinafter referred to as Foulger.

Since the Examiner did not specifically address claims 4, 8, 9 and 12 under 35 U.S.C. 102(b), but did address these claims under 35 U.S.C. 103(a), Applicant assumes that the Examiner meant to reject only claims 1 to 3, 5 to 7, 10 to 11, and 13 to 17 under 35 U.S.C.

102(b). Nevertheless, Applicant asserts that it will become clear from the present response that claims 4, 8, 9, and 12, as they are read in light of the claim amendments submitted herewith, are also not anticipated by Foulger.

Independent Claims 1, 13, and 17. Without conceding to the Examiner's objections, but solely in order to expedite prosecution of the instant application, Applicant has amended claims 1, 13 and 17, submitted herewith.

Specifically, Applicant has amended claim 1, submitted herewith, inserting the phrase "and wherein the production system and messaging system are further configured to create and transmit a subsequent electronic message to the at least one predetermined potential customer, wherein content related to said collected and evaluated notifications can be incorporated into the subsequent electronic message." Applicant has also amended claim 13, replacing the phrase "wherein the collection and evaluation of the notifications enables incorporation of content relating to these previous notifications into a subsequently created and transmitted electronic message to the same predetermined potential customer." with the phrase "(e) creating and transmitting, using one or more of said system of computers, a subsequent electronic message to the at least one predetermined potential customer, wherein content related to said collected and evaluated notifications can be incorporated into the subsequent electronic message." Support for this amendment can be found throughout the specification as originally filed, for example on page 10, lines 32 to 34, page 14, lines 1 to 17, and page 24, line 20 to page 25, line 9.

Applicant has also amended claim 13, submitted herewith, replacing the phrase "wherein the collection and evaluation of the notifications enables incorporation of content relating to these previous notifications into a subsequently created and transmitted electronic message to the same predetermined potential customer." with the phrase "(e) creating and transmitting, using one or more of said system of computers, a subsequent electronic message to the at least one predetermined potential customer, wherein content related to said collected and evaluated notifications can be incorporated into the subsequent electronic message." Support for this amendment can be found throughout the specification as originally filed, for example on page 10, lines 32 to 34, page 14, lines 1 to 17, and page 24, line 20 to page 25, line 9.

Applicant has also amended claim 17, submitted herewith, replacing the phrase "wherein the collection and evaluation of the notifications enables incorporation of content relating to these previous notifications into a subsequently created and transmitted electronic message to the

same predetermined potential customer.” with the phrase “e) creating and transmitting a subsequent electronic message to the at least one predetermined potential customer, wherein content related to said collected and evaluated notifications can be incorporated into the subsequent electronic message.” Support for this amendment can be found throughout the specification as originally filed, for example on page 10, lines 32 to 34, page 14, lines 1 to 17, and page 24, line 20 to page 25, line 9.

Applicant asserts that Foulger does not disclose or even suggest creating and transmitting a subsequent electronic message to the at least one predetermined potential customer, the subsequent electronic message having incorporated therein content related to said collected and evaluated notifications, as explicitly recited in claims 1, 13 and 17, submitted herewith. Rather, Foulger only discloses a system for generating and tracking an email campaign, wherein an email campaign is defined as “a system for sending email to a number of email targets.” The campaign tracker of Foulger outputs tracking information, such as statistical data and charts, for measuring success of the email campaign. However, Foulger does not teach or suggest configuring subsequent email campaigns based on information gathered by the campaign tracker, for example.

Based on the foregoing, it is respectfully asserted that each of independent claims 1, 13, and 17 is patentable over Foulger.

Dependent Claims. Each of claims 2-3, 5-7, 10-11, 14-16 is a dependent claim that depends either directly or indirectly from one of independent claims 1 and 13. Consequently, each of these dependent claims is at least allowable for the reasons noted with respect to the independent claim from which it depends. However, each of these dependent claims may be allowable for additional reasons, and the applicant reserves the right to assert any such reason in the future.

Claim 4 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Foulger (20020032738) in view of United States Patent Application Publication No. 2003/0023598 to Janakiraman *et al.*, hereinafter referred to as Janakaraman.

Claim 4 is a dependent claim that depends either directly or indirectly from independent claim 1. As set forth above, applicant asserts that claim 1 is not anticipated by Foulger. Applicant further asserts that claim 1 is patentable over Foulger in view of Janakiraman.

Consequently, claim 4 is at least allowable for the reasons noted with respect to independent claim 1. However, claim 4 may be allowable for additional reasons, and the applicant reserves the right to assert any such reason in the future.

Claims 8, 9 and 12 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Foulger (20020032738) in view of Official Notice.

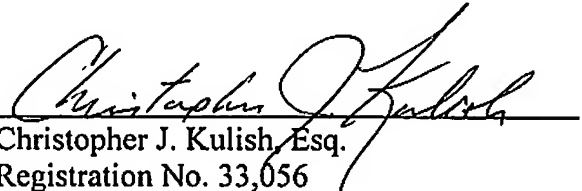
Each of claims 8, 9, and 12 is a dependent claim that depends either directly or indirectly from independent claim 1. As set forth above, Applicant asserts that claim 1 is not anticipated by Foulger. Applicant further asserts that claim 1 is patentable over Foulger in view of the Official Notices. Consequently, each of dependent claims 8, 9, and 12 is at least allowable for the reasons noted with respect to independent claim 1. However, each of these dependent claims may be allowable for additional reasons, and the applicant reserves the right to assert any such reason in the future. As such, this reply should not be considered to acquiesce in any way to any of the Official Notices set forth in the Action.

No claim related fees are believed to be due with this response. In the event any such fees are due, please debit Deposit Account 50-4902.

In the event that a petition for extension of time under 37 CFR §1.136(a) is required to have this reply considered and such a petition does not otherwise accompany this reply, please consider this a petition for an extension of time for the required number of months and authorization to debit Deposit Account 50-4902 for the required fee.

The application now appearing to be in form for allowance, reconsideration and allowance thereof is respectfully requested. If a telephone conversation will further the prosecution and/or expedite allowance, the examiner is invited to contact the undersigned attorney.

Respectfully submitted,

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